



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,554	01/31/2002	Kevin L. Parsons	85811	2743

7590 09/23/2003
Welsh & Katz, Ltd.
Richard L. Wood
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

EXAMINER

WARD, JOHN A

ART UNIT	PAPER NUMBER
----------	--------------

2875

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/066,554	Applicant(s) PARSONS ET AL.	
	Examiner John A. Ward	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10, 12-15, 19-25, 28, 29, 33-35, 44-49, 52 and 53 is/are rejected.
- 7) ☒ Claim(s) 7-9, 11, 16-18, 26, 27, 30-32, 36-43, 50 and 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 15, and 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Kish et al (US 6,161,938).

Regarding claim 34, Kish et al ('938) discloses a flashlight 20 comprising of a generally flat housing 24, figure 2 shows that housing having substantially greater longitudinal length than the thickness so as to define laterally opposite side and edge surfaces, a light source 40, partially enclosed at the end of the housing (figure 2). Figure 2 shows the housing having a recess 38 open outwardly of the housing, a modular power source 40 to be inserted into the recess (figure 2), a switch 142, column 5, lines 4-25, teaches how switch closes the circuit to including the power source and light source.

Regarding claim 35, Kish et al discloses a battery frame 26 defining a recess (figure 4), the modular power source comprising a battery pack 42 including a battery holder 43, at least one battery 44 (a-d), column 4, lines 26-40, teaches how the battery

pack is in predetermined relation to the switch when the battery pack is inserted in the recess.

Regarding claim 1, Kish et al disclose a battery holder 43 that has a pair of opening (figure 18), therein facilitating electrical connection of positive 72 and negative terminals 74 of the battery in the light source.

Regarding claim 2, Kish et al teaches on column 4, lines 26-44 teaches how battery holder and batteries are mutually cooperable to prevent full insertion of the battery pack in the recess unless the battery pack is in a predetermined orientation relative to the battery frame when inserted into the recess.

Regarding claim 3, Kish et al teaches column 4, lines 1-25 wherein the battery frame includes an opening communicating with said recess so as to enable insertion of a pusher member (80, 82, 84) into said opening to at least partially eject said battery pack from said recess.

Regarding claim 4, Kish et al shows in figure 9 wherein said battery holder has a post extending therefrom positioned to enter said opening when said battery pack is fully inserted into said recess, whereby a battery holder post on a similarly shaped battery holder can be inserted into said opening from externally of said battery frame to at least partially eject a battery pack when fully disposed within said recess.

Regarding claim 5, Kish et al shows in figure 9, wherein said battery holder has a generally planar surface disposed in substantially coplanar relation with said one of said edge surfaces when said battery pack is fully inserted into said recess.

Regarding claim 6, Kish et al teaches that the battery holder has a locating arm 117, adapted for receipt within a notch formed in said battery frame adjacent said recess when said battery pack is inserted into said recess disposed in said predetermined orientation (column 4, lines 33-40).

Regarding claim 15, Kish et al in figure 4 show shows a recess has a longitudinal axis disposed generally transverse to a longitudinal axis of said housing.

Claims 45-49, are rejected under 35 U.S.C. 102(e) as being anticipated by Yu et al (US 6,299,323).

Regarding claim 45, Yu et al discloses A battery pack 40, for use with a flashlight 10, that includes a housing 18 having a recess 59 of predetermined configuration opening outwardly of the housing for receiving a battery pack, said battery pack comprising a battery holder 38 having generally parallel opposite external walls defining a cavity there between adapted to enclose at least one coin type battery having side surfaces of opposite polarity (figure 2), said battery holder being configured to enable insertion into the flashlight recess, said external walls each having an opening therein enabling access to the opposite polarity sides of the battery (column 2, lines 34-57).

Regarding claim 46, Yu et al shows in figure 2, wherein said battery holder includes means for limiting insertion of the holder into the flashlight recess unless the holder is inserted into the recess when disposed in a predetermined orientation relative to the flashlight recess.

Regarding claim 47, Yu et al shows in figure 2 wherein said means for limiting insertion of the battery holder into the flashlight recess comprises a rectilinear rim 43, formed on said battery holder and defining an extension adapted to prevent full insertion of the holder into the recess unless the holder is disposed in said predetermined orientation.

Regarding claim 48, Yu et al wherein the flashlight has an opening communicating with said recess and wherein the battery holder has an external boss 20 adapted to be received in said recess when the battery pack is fully inserted into the recess.

Regarding claim 49, Yu et al wherein the battery holder has a nail notch formed therein to enable insertion of a user's thumb or finger nail to facilitate removal of the battery pack from the flashlight recess when disposed therein (column 2, lines 51-62).

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 22, 26 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Montgomery (US 4,535,392).

Regarding claim 19, Montgomery ('392) discloses a flashlight 10 comprising, in combination; a light source 94, a modular power source 18, a housing 32 at least partially enclosing said light source (figure 2) and having a recess opening externally of said housing for slidably receiving said power source in predetermined relation to said light source, and a switch 100, operatively associated with said housing and adapted to close a circuit including said light source and said modular power source so as to

energize said light source (figure 4), said switch being selectively operable in a first mode to momentarily close said circuit, and being selectively operable in a second mode to continuously close said circuit (column 4, lines 51-68).

Regarding claim 22, Montgomery discloses wherein said modular power source comprises a modular battery pack 18, it is inherent to provide a battery holder enclosing at least one battery so as to prevent inadvertent release of said battery from said holder, said holder having a first opening enabling access to a positive pole of said battery, and having a second opening enabling access to a negative pole of said battery.

Regarding claim 26, Montgomery discloses wherein said housing includes (figure 3) an opening communicating with said recess so as to enable insertion of a pusher member into said opening to at least partially eject said battery pack from said recess when disposed therein.

Regarding claim 53, wherein the switch 100 is a slide-type switch.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery as applied to claim 1 above, and further in view of Padden (US 5,893,631).

Montgomery regarding claim 10, discloses all the limitations of the claimed invention of claim 1 above but does not disclose a light emitting diode.

Regarding claim 10, Padden wherein said light source comprises an a-LED 16 having a pair of leads (18, 20) extending internally of said housing, one of said leads being interconnected to a negative terminal of said battery pack when disposed in said recess, said switch being operative to interconnect the other of said leads in circuit with the positive terminal of said battery pack without effecting physical contact of said other lead with said positive terminal (column 5, lines 6-17).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Montgomery with flashlight of Padden having a light emitting diode in order to provide a flashlight that is light weight and can be operated with a low voltage battery.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery as applied to claim 34 above, and further in view of Padden ('631).

Regarding claims 12-14, Montgomery discloses all the limitations of the claimed invention, but does not disclose a keyring extending outwardly from the flashlight.

Regarding claim 12 Padden discloses a flashlight having a light source 16, and including a keyring extending outwardly from said housing and defining an opening-se- as to enable attachment of keys or a key chain to said keyring or enable attachment of the flashlight to support means.

Regarding claim 13, Padden discloses a flashlight having a keyring wherein said keyring includes a keyring lock operative to prevent unintentional release of keys or a key chain from said keyring (column 5, lines 46-57).

Regarding claim 14, Padden discloses a flashlight wherein said keyring extends longitudinally outwardly from an end of said housing opposite said light source (figure 17).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Montgomery with flashlight of Padden having a light emitting diode in order to provide a flashlight that is light weight and can be operated with a low voltage battery.

Claims 20, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery as applied to claim 19 and 22 above, and further in view of Yu et al ('323).

Montgomery discloses all the limitations of the claimed invention as claim in claim of 19 and 22, but does not disclose the push button switch or a light emitting diode.

Regarding claim 20, Yu et al discloses a flashlight wherein the switch includes a push button 26, carried by said housing, said push button being movable generally longitudinally of said housing to a first position to effect operation of said switch in the first mode.

Regarding claim 21, Yu et al discloses a flashlight wherein said push button includes an outer dome 26, having surface extending outwardly of said housing to facilitate actuation of said push button by an operator's thumb or finger.

Regarding claim 23, Yu et al discloses a flashlight wherein said light source comprises a LED 14, having leads extending therefrom, said housing including a battery frame defining said recess and supporting said LED with said leads extending into said battery frame, a selected one of said leads being interconnected to said negative pole of said battery without physically contacting said negative pole, the other of said leads being adapted for interconnection to said positive pole terminal without physically contacting said positive pole terminal-in response to operation of said switch in said first and second modes (column 2, 34-64).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Montgomery with flashlight of Yu et al having a light emitting diode and pushbutton in order to provide a flashlight that is light weight and can be operated with a low voltage battery.

Claims 24-25, 28-29, 33 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery as applied to claim 19 above, and further in view of Padden ('631).

Regarding claims 24-25, 28-29, 33 and 44 discloses all the limitations of the claimed invention wherein said modular power source comprises a modular battery pack.

Regarding claim 24, Padden discloses a flashlight a modular power source comprise a battery pack, including a battery holder 24 enclosing at least one battery 22.

Regarding claim 25, Padden teaches wherein the battery holder and said housing are mutually cooperable to prevent full insertion of said battery pack into said recess unless said battery pack is in a predetermined orientation relative to said housing when inserted into said recess (column 3, lines 30-46).

Regarding claim 28, Padden shows in figure 1, wherein said battery holder has a generally planar surface disposed in substantially coplanar relation with an external surface of said housing adjacent said recess when said battery pack is fully inserted into said recess.

Regarding claim 29, Padden shows in figure 1 and 5, wherein said battery holder has a locating arm 26 adapted for receipt within a notch 32 formed in said housing adjacent said recess when said battery pack is inserted into said recess disposed in said predetermined orientation.

Regarding claim 33, Padden shows in figure 8, herein said light source comprises a LED 16 having a pair of leads (18, 20) extending internally of said housing, one of said leads being interconnected to a negative terminal 23 of said battery pack when disposed in said recess, said switch being operative to interconnect the other of said leads in circuit with the positive terminal 22 of said battery pack without effecting physical contact of said other lead with a said-positive terminal (column 5, lines 6-17).

Regarding claim 44, Padden shows in figure 5, wherein said battery holder has a nail nick or notch formed therein to facilitate insertion of a thumb or fingernail for removing the battery holder from the recess.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Montgomery with flashlight of Padden having a light emitting diode and pushbutton in order to provide a flashlight that is light weight and can be operated with a low voltage battery.

Allowable Subject Matter

Claims 7-9, 11, 16-18, 27, 30-32, 36-43, and 50-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The flashlight includes a switch plate having a first surface defining a side boundary of said recess, said switch plate having a second opposite surface defining a guide slot, a switch slide plate disposed within said guide slot and movable to a first position enabling momentary closing of said circuit to energize said light source, said switch slide plate being movable to a second position enabling continuous closing of said circuit, said switch including a push button exposed externally of said housing and cooperative with said slide plate to enable an operator to move said slide plate between said first and second positions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Ward whose telephone number is 703-305-5157. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0596.

A handwritten signature in black ink, appearing to read 'John A. Ward', with a large, stylized initial 'J' and 'W'.

John A. Ward
Patent Examiner AU 2875

JAW
September 16, 2003